

Message Text

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TAGS: EINV, OECD, EFIN

SUBJECT: CFA WPG ON TRANSFER PRICING

1. SUMMARY: MEETING OF SPECIAL WORKING GROUP ON TRANSFER PRICING OF WORKING PARTY 6 OF COMMITTEE ON FISCAL AFFAIRS (FEB 10-11, 1976), INCLUDING DELEGATES FROM US, UK, FRANCE, GERMANY AND SWITZERLAND, CONTINUED WORK ON VARIOUS TRANSFER PRICING ISSUES. END SUMMARY.

2. FRENCH DELEGATE (KERLAN) REPORTED ON EXPECTED (UNOFFICIAL) TRANSMITTAL OF THE WORKING GROUP'S PAPER ON INTEREST AND LOANS TO A UNITED NATIONS GROUP ON TAX TREATIES BETWEEN DEVELOPED AND LESS DEVELOPED COUNTRIES THAT IS ALSO FOCUSING ON TRANSFER PRICING ISSUES. HE INDICATED UN GROUP RESPONDED FAVORABLY TO IDEAS IN PAPER.

3. WG DISCUSSED DRAFT OF PAPER ON TRANSFER PRICING, FOR TAX PURPOSES, OF INTANGIBLE PROPERTY SUCH AS PATENTS AND KNOW-HOW. DISCUSSION CONCENTRATED ON:
(A) THE DEFINITION AND IMPLEMENTATION OF THE "ARM'S
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LENGTH" PRINCIPLE, (B) POSSIBLE USES OF PROFIT

APPORTIONMENT TESTS, (C) TAX TREATMENT OF RESEARCH AND DEVELOPMENT; AND (D) COST SHARING LAWS, RULES, AGREEMENTS, AND PRACTICES.

4. WG ALSO BRIEFLY DISCUSSED DRAFT OF THE TRANSFER PRICE TREATMENT OF SERVICES, INCLUDING THOSE OF COMMERCIAL, MANAGERIAL, OR ADMINISTRATIVE NATURE. TOPICS DISCUSSED INCLUDED THE APPROPRIATENESS OF A CHARGE FOR SUPERVISORY SERVICES AND THE CONDITIONS UNDER WHICH SERVICES MIGHT BE CHARGED AT COST, RATHER THAN AT COST PLUS PROFIT ELEMENT.

5. US REP UNDERTOOK TO SUBMIT AN EXAMPLE OF A COST-SHARING ARRANGEMENT IN RESPECT OF R & D; TO TRY TO FIND OUT TO WHAT EXTENT, AND IN WHAT WAY, THE "PROPORTIONATE PROFITS" METHOD IS ACTUALLY USED BY TAX INSPECTORS IN CASES OF TRANSFER OF INTANGIBLE PROPERTY; TO FORWARD TO THE SECRETARIAT THE UNITED STATES' LEGAL DEFINITION OF KNOW-HOW. US REP ALSO WILL SUBMIT A RE-FORMULATION OF PARS. 12 TO 14 AND MORE INFORMATION ON THE JURISPRUDENCE IN RELATION TO SUPERVISORY AND SIMILAR ACTIVITIES.

6. NEXT MEETING OF THE WORKING GROUP IS SCHEDULED FOR APRIL 26 AND 27, 1976.
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